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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,914	12/14/2000	Thomas S. Neary	92220/12408	8976
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Kenneth P. Robinson 474 New York Avenue, Ste 1 Huntington, NY 11743		EXAMINER ELAHEE, MDS		
		ART UNIT PAPER NUMBER		
		2645		
		DATE MAILED: 08/25/2004		

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/736,914

Applicant(s)

NEARY, THOMAS S.

Examiner

Md S Elahee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-20 is/are allowed.
- 6) ☒ Claim(s) 1-16 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Response to Amendment***

1. This action is responsive to an amendment filed on 06/04/04. Claims 1-16 and 21-24 are pending.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1-16 and 21-24 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 6-12, 14, 16 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollier et al. (U.S. Patent No. 6,304,634) and in view of Newman et al. (U.S. Patent No. 5,940,472).

Regarding claims 1 and 11, Hollier teaches storing predetermined speech (i.e., prompt) data representative of predetermined conversational intent (i.e., content of correct utterances) to be provided by the measurement device (i.e., interactive audio system) in response to specific data inputs (abstract; col.2, lines 64-67, col.3, lines 1-9, col.8, lines 13-20).

Hollier further teaches sending a first response signal (i.e., data input) responsive to a first speech (i.e., prompt) signal received from the measurement device (i.e., interactive audio system) (abstract; fig. 1; col.7, lines 60-67, col.8, 1-12).

Hollier further teaches receiving a second speech (i.e., prompt) signal responsive to the first response signal (i.e., data input) and including sequence of sounds (i.e., coded signals) representing conversational intent (i.e., content of an utterance label) (col.7, lines 60-67, col.8, 1-20).

Hollier further teaches comparing content of the received speech (i.e., utterance label, as represented by such coded signals included in the second prompt signal), against expected speech (i.e., content of an expected utterance label, as represented by the predetermined prompt data) (col.8, lines 13-20).

Hollier further teaches providing conversation testing (i.e., call-flow verification) (abstract; col.2, line 64-col.3, line 9). Furthermore, Hollier teaches causing the sending device to repeat sending the original signal when the expected response signal is not received by the sending device (see col.3, lines 23-30, col.10, lines 30-43). However, it is not clear whether Hollier teaches identifying call-flow discrepancies. Newman teaches identifying error condition (i.e., call-flow discrepancies) (col.10, lines 30-44, col.11, lines 37-45). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hollier to incorporate the feature of identifying call-flow discrepancies in order to report error condition.

Regarding claims 2 and 12, Hollier teaches a call connection to the measurement device (i.e., interactive audio system), activating the testing mode (i.e., CFV mode by sending the CFV sequence code) (abstract; col.2, lines 64-67, col.3, lines 1-9).

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Regarding claims 3 and 16, Hollier teaches that providing a record of discrepancies identified by comparing content in step (d) (col.9, lines 23-43).

However, Hollier fails to teach discrepancies comprising one or more of an inaccurate utterance, a missing utterance and an out of order utterance. Newman teaches discrepancies comprising one or more of an inaccurate utterance, a missing utterance and an out of order utterance (col.10, lines 30-44, col.11, lines 37-45). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hollier to have discrepancies comprising one or more of an inaccurate utterance, a missing utterance and an out of order utterance as taught by Newman. The motivation for the modification is to have doing so in order to detect error for different types of responses.

Regarding claim 4, Hollier teaches sending a second response signal (i.e., data input) responsive to a second speech (i.e., prompt) signal received from the measurement device (i.e., interactive audio system) (col.7, lines 60-67, col.8, 1-20, col.10, lines 10-29).

Hollier further teaches receiving a third speech (i.e., prompt) signal responsive to the response signal (i.e., data signal) (col.10, lines 10-29).

Hollier further teaches comparing content of the received speech (i.e., utterance label represented by coded signals included in the third prompt signal), against the expected speech (i.e., predetermined prompt data) (col.8, 13-20, col.10, lines 10-29).

Regarding claim 6, Hollier further teaches that the measurement device (i.e., interactive audio system) is adapted to enable activation of the testing (i.e., CFV) mode by transmission of a testing mode activation command remotely to the measurement device (i.e., interactive audio system) (abstract; col.2, lines 64-67, col.3, lines 1-9).

Regarding claim 7, Hollier teaches that the measurement device (i.e., interactive audio system) is adapted to enable activation of the testing (i.e., CFV) mode on a per call basis (abstract; col.2, lines 64-67, col.3, lines 1-9, col.4, lines 11-20).

Regarding claim 8, Hollier teaches that the measurement device (i.e., interactive audio system) is responsive to sequence of sounds (i.e., CFV sequence code) to activate the testing (i.e., CFV) mode when the mode is currently deactivated (col.5, lines 31-50, col.8, lines 13-20, col.10, lines 10-29).

Regarding claim 9, Hollier further teaches the measurement device (i.e., interactive audio system) is an interactive voice response telephone system (abstract; fig.1; col.3, lines 66, 67).

Regarding claim 10, Hollier teaches that a call originating device (i.e., automated call generator) having access to the predetermined speech (i.e., prompt) data, to script data for calls placed to the measurement device (i.e., interactive audio system), and to stored received speech (i.e., prompt) signals (abstract; fig.1; col.2, lines 64-67, col.3, lines 1-9, col.7, lines 29-38).

Regarding claim 14 is rejected for the same reasons as discussed above with respect to claims 1 and 2. Furthermore, Hollier teaches providing a measurement device (i.e., interactive audio system) having a selectable testing (i.e., call-flow verification (CFV) mode in which conversational intent (i.e., content of an utterance) responsive to an incoming call is represented by coded signals included in speech (i.e., prompt) signals, the testing (i.e., CFV) mode selectable by a testing (i.e., CFV) sequence code (abstract; col.2, lines 64-67, col.3, lines 1-9, col.8, lines 13-20, col.10, lines 10-29).

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Regarding claim 21 is rejected for the same reasons as discussed above with respect to claim 1. Furthermore, Hollier teaches a model (i.e., encoding circuit) to provide coded signals representative of conversational intent (i.e., content of utterances) in coded format for inclusion in speech (i.e., prompt) signals (fig.1; col.5, lines 31-50, col.7, lines 29-44, 60-67, col.8, lines 1-20).

Hollier further teaches a network management center (i.e., activation circuit) to enable activation of the model (i.e., encoding circuit) so that speech (i.e., prompt) signals provided by the system include such coded signals (fig.1; col.5, lines 31-50, col.7, lines 29-59).

Regarding claim 22, Hollier teaches that a combination of an utterance and coded signals representative of content thereof; and coded signals representative of an utterance, without inclusion of such utterance (col.7, lines 29-59).

Regarding claim 23 is rejected for the same reasons as discussed above with respect to claim 18.

5. Claims 5, 13, 15 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollier et al. (U.S. Patent No. 6,304,634) and in view of Newman et al. (U.S. Patent No. 5,940,472) and further in view of Hank et al. (U.S. Patent No. 6,321,198).

Regarding claims 5, 13, 15 and 24, Hollier in view of Newman fails to teach "utterance label characters in ASCII format". Hank teaches caller speech converted in ASCII format (col.3, lines 40-44; 'caller speech converted' reads on the claim 'utterance label characters'). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hollier in view of Newman to represent

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utterance label characters in ASCII format as taught by Hank. The motivation for the modification is to introduce ASCII characters so that it can be recognized and understood by other computers and by communication devices.

***Allowable Subject Matter***

6. Claims 17-20 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 17, the prior arts Newman and Kirkpatrick fail to teach that at least one frame digit indicating whether to include or exclude the utterance when providing an audio signal including the DTMF signals representing the content of such voice signals and at least one extent digit identifying the number of characters of an utterance represented by the DTMF signals representing content of that call message.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S Elahee whose telephone number is (703) 305-4822. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (703) 305-4895. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. E.

MD SHAFIUL ALAM ELAHEE

August 23, 2004

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